

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

## MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. The parties case came before the Court for an evidentiary hearing on the Defendants' Joint Motion to Suppress [Doc. 24], filed on October 16, 2019. Assistant United States Attorney Alan Scott Kirk participated on behalf of the Government. Assistant Federal Defender Bobby E. Hutson, Jr., represented Defendant Nathaniel Martinez Lopez, who was also present. Attorney Christopher Rodgers represented Defendant Jennelle Salcedo, who participated by telephone.

At the conclusion of the hearing, Mr. Hutson said the Defendants would like to file a post-hearing brief, once they have had a chance to obtain a transcript of the evidentiary hearing. The Court set a briefing deadline of March 27, 2020, for the Defendants and a deadline of April 10, 2020, for the Government's responding brief. The Court observed that post-hearing briefing will require a continuance of the May 12 trial date, in order to permit a ruling on the suppression motion

before trial. Defense counsel agreed with the need for a continuance. The parties agreed on a new trial date of August 4, 2020.

The Court takes defense counsels' request for a post-hearing briefing schedule and their agreement with its effect on the trial date to be an oral motion to continue the trial. The Court finds the Defendants' joint, oral motion to continue the trial to be unopposed and well taken and that the ends of justice served by continuing the trial outweigh the interest of the Defendants and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The trial was previously continued to permit litigation of the Defendants' Joint Motion to Suppress, after counsel for Defendant Salcedo concluded a lengthy criminal trial in another case. *See* 18 U.S.C. § 3161(h)(1)(D). The Court conducted an evidentiary hearing on the suppression motion on February 19, 2020. At the conclusion of that hearing, the Court set a post-hearing briefing schedule that concludes on April 10, 2020. Once the post-hearing briefs are filed, the undersigned will need time to prepare a report and recommendation, the parties will need time to file any objections, and the District Judge will need time to rule on the suppression motion in light of the report and any objections. *See* 18 U.S.C. § 3161(h)(1)(H). Finally, counsel will need time to prepare the case for trial, after receiving a ruling on the suppression motion. Accordingly, the Court finds that a trial continuance is warranted for counsel to have the reasonable time necessary to prepare for trial, despite their use of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

The unopposed, oral motion to continue the trial is **GRANTED**, and the trial of this matter is reset to **August 4, 2020**. The Court finds that all the time between the evidentiary hearing on February 19, 2020, and the new trial date of August 4, 2020, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. *See* 18 U.S.C. § 3161(h)(1)(D), -(1)(H), & -

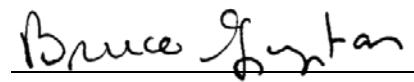
(7)(A)-(B). Regarding other scheduling in this case, the Defendants' deadline for filing their post-hearing brief is **March 27, 2020**. The government's deadline for filing its responding post-hearing brief is **April 10, 2020**. The parties are to appear before the undersigned for a final pretrial conference on **July 20, 2020, at 11:00 a.m.** This date will also be the new deadline for filing a plea agreement in the record, providing reciprocal discovery, and filing motions *in limine*. Requests for special jury instructions shall be filed no later than **July 24, 2020**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

- (1) The Defendants' joint, oral motion to continue the trial is **GRANTED**;
- (2) The trial of this case is reset to commence on **August 4, 2020, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, United States District Judge;
- (3) All time between the **February 19, 2020** evidentiary hearing and the new trial date of **August 4, 2020**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The Court will hold a final pretrial conference on **July 20, 2020, at 11:00 a.m.** This date is also the new deadline for filing a plea agreement in the record, providing reciprocal discovery, and filing motions *in limine*; and
- (5) The parties must file requests for special jury instructions, supported by citations to authority pursuant to Local Rule 7.4, by **July 24, 2020**.

**IT IS SO ORDERED.**

ENTER:

  
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United States Magistrate Judge